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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

[FV-96-326]

Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products Regulations Governing Inspection and Certification

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule revises the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Certain Other Products¹ by increasing the lot inspection and less than year round fees charged for the inspection of processed fruits and vegetables and certain other products. These revisions are necessary in order to recover, as nearly as practicable, the costs of performing inspection services under the Agricultural Marketing Act of 1946.

EFFECTIVE DATE: October 6, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Rodeheaver, Branch Chief, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 0709 South Building, Washington, D.C. 20090-6456, Telephone (202) 720-4693.

SUPPLEMENTARY INFORMATION: This rule has been determined to be not significant for purposes of Executive Order 12866, and therefore has not been reviewed by the Office of Management and Budget.

¹ May include the following: Honey; molasses, except for stockfeed; nuts and nut products, except oil; sugar (cane, beet, and maple); sirups (blended), sirups, except from grain; tea, cocoa, coffee, spices, condiments.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

The Agricultural Marketing Service (AMS), has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act. The final rule reflects certain fee increases needed to recover the costs of services rendered in accordance with the Agricultural Marketing Act (AMA) of 1946. The inspection, grading and certification program for processed fruits and vegetables and related products is voluntary.

The AMA authorizes voluntary official inspection, grading, and certification on a user-fee basis, of processed food products including processed fruits, vegetables, and processed products made from them. The AMA provides that reasonable fees be collected from the user of the program services to cover as nearly as practicable the costs of services rendered. This final rule amends the schedule of fees and charges for lot inspection and less than year round inspection services rendered to the processed fruit and vegetable industry to reflect the costs currently associated with the program.

AMS regularly reviews these programs to determine if fees are adequate. Employee salary and benefits are major program costs that account for approximately 85 percent of the total operating budget. A general and locality salary increase for Federal employees, ranging from 3.09 to 6.25 percent depending on locality, effective January 1995, has materially affected program costs. Another general and locality salary increase, ranging from 2.39 to 2.87 percent depending upon locality (amounting to approximately \$625,000), was effective January 1996; further standardization program costs, previously funded by appropriated funds, must be paid for by user fees.

While a concerted effort to cut costs resulted in overhead savings of

\$623,926 in FY95 over FY94, the last fee increase in August 1994 did not result in collection of enough revenue to cover all these increases and still maintain an adequate reserve balance (four months of costs) called for by Agency policy and prudent financial management. Currently the Processed Products Branch (PPB) trust fund reserve balance for all programs is approximately \$1.480 mil. under the desirable level of \$11.031. Further action is necessary to meet rising costs and maintain adequate reserve balances. This action will assist in moving the PPB trust fund toward a more adequate level and will result in an estimated \$368,000 in additional revenues. Projected FY96 revenues for the lot inspection and less than year round inspection programs are \$8.291 mil. with costs projected at \$8.194 and a reserve of \$2.682.

A notice of proposed rulemaking was published in the Federal Register (61 FR 9654) on March 11, 1996 with a thirty day comment period. The comment period closed on April 11, 1996. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Agricultural Marketing Service. No comments were received regarding this proposed rule.

After consideration of all relevant matter presented, this action makes final the changes as proposed on March 11, 1996. The changes are made effective October 6, 1996 to coincide with the beginning of the first accounting period in the 1997 fiscal year.

List of Subjects in 7 CFR Part 52

Food grades and standards, Food labeling, Frozen foods, Fruit juices, Fruits, Reporting and record keeping requirements, and Vegetables.

For the reasons set forth in the preamble, 7 CFR Part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for 7 CFR Part 52 continues to read as follows:

Authority: 7 U.S.C. 1621-1627.

§ 52.42 [Amended]

2. In § 52.42, the figure "\$39.50" is revised to read "\$41.00".

§ 52.50 [Amended]

3. In § 52.50, the figure "\$39.50" is revised to read "\$41.00".

§ 52.51 [Amended]

4. In § 52.51, paragraph (c)(2) is amended by removing the figure "\$39.50" and adding in its place "\$42.00" and paragraph (d)(1) is amended by removing the figure "\$39.50" and adding in its place "\$42.00".

Dated: May 16, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96-12835 Filed 5-21-96; 8:45 am]

BILLING CODE 3410-02-P

Food and Consumer Service**7 CFR Parts 225 and 226**

RIN 0584-AB17

Determination of Eligibility for Free Meals by Summer Food Service Program Sponsors and Free and Reduced Price Meals by Child and Adult Care Food Program Institutions

AGENCY: Food and Consumer Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the regulations governing the collection of social security numbers and household income information on the application for free meals under the Summer Food Service Program (SFSP) for Children, and for free and reduced price meals under the Child and Adult Care Food Program (CACFP). The rule removes the requirement that households provide the social security numbers of all adult members of the household and requires the household to provide only the social security number of the adult household member who signs the application. Finally, when reporting household income, the household will no longer be required to indicate how often individual income amounts are received, or to calculate its total current income. All of the above provisions are intended to reduce paperwork and facilitate eligibility determinations for free and reduced price meals by simplifying the application requirements for both households and approving officials, while maintaining program integrity.

EFFECTIVE DATE: June 21, 1996.

FOR FURTHER INFORMATION CONTACT:

Robert M. Eadie or Edward Morawetz, Policy and Program Development Branch, Child Nutrition Division, Food and Consumer Service, Department of

Agriculture, 3101 Park Center Drive, Room 1007, Alexandria, Virginia 22302 or telephone 703-305-2620.

SUPPLEMENTARY INFORMATION:**Executive Order 12866**

This rule has been determined to be not significant for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

This rule has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The Administrator of the Food and Consumer Service has certified that this rule will not have a significant economic impact on a substantial number of small entities. The effect of the provisions of this rule will be to reduce paperwork and facilitate eligibility determinations for free and reduced price meals by simplifying the application requirements for both households and approving officials, while maintaining program integrity.

Executive Order 12372

The CACFP and SFSP are listed in the Catalog of Federal Domestic Assistance under No. 10.558 and 10.559, respectively, and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983).

Information Collection

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), the reporting and recordkeeping changes included in this rule have been approved by the Office of Management and Budget (OMB) under control numbers 0584-0055 and 0584-0280.

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the "Effective Date" section of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. In the SFSP, the administrative procedures are set forth

under the following regulations: (1) Program sponsors and food service management companies must follow State agency hearing procedures issued pursuant to 7 CFR § 225.13; and (2) Disputes involving procurement by State agencies and sponsors must follow administrative appeal procedures to the extent required by 7 CFR § 225.17 and 7 CFR Part 3015. In the CACFP, the administrative procedures are set forth under the following regulations: (1) Institution appeal procedures in 7 CFR § 226.6(k); and (2) Disputes involving procurement by State agencies and institutions must follow administrative appeal procedures to the extent required by 7 CFR § 226.22 and 7 CFR Part 3015.

This rule codifies the amendments set forth under sections 202(b)(2)(A) and (b)(2)(B)(i) of the Child Nutrition and WIC Reauthorization Act of 1989 (Pub. L. 101-147) regarding the collection of social security numbers and total income calculations for programs under the National School Lunch Act (42 U.S.C. 1751 *et seq.*) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 *et seq.*). Section 202(c) of Pub. L. 101-147 required that final regulations be issued incorporating these amendments by July 1, 1990. However, we were unable to issue regulations on the collection of social security numbers and total income calculation amendments before the statutory deadline. The provisions were implemented by a policy memorandum issued on May 18, 1990.

This rule is being issued as a final rule, rather than a proposed rule, because of the mandated implementation date. Further, this rule is being issued as a final rule because of the need to formally implement these changes to the application procedures. Although a policy memorandum has already been distributed to give State agencies guidance, the SFSP and CACFP regulations must be amended to codify the changes mandated by sections 202(b)(2)(A) and 202(b)(2)(B)(i) of Pub. L. 101-147. Final regulations have already been promulgated incorporating these changes for the National School Lunch, School Breakfast and Special Milk Programs (56 FR 33857, July 24, 1991). For consistency and simplicity, it is important that the SFSP and CACFP regulations be amended to conform with the National School Lunch, School Breakfast, and Special Milk Program regulations. Finally, the changes to the application being made by this rulemaking will simplify the application procedures for households. For these reasons, the Administrator of the Food and Consumer Service has determined, in accordance with 5 U.S.C. 553(b)(3)(B), that it is impracticable and